Dockets Management Branch
Food & Drug Administration
5630 Fishers Lane
Room 1061
Rockville, MD 20852

3423 '99 MAY -5 :10 :36

Dear Sir/Madam:

Re: Docket No. 98P-0968 Ingredient Labeling Surimi

This letter is submitted by Avri Companies, Inc. in response to the Food and Drug Administration (FDA) request for comments on its proposed rule to permit the use of "and/or" ingredient labeling in declaring the various fish species that might be present in bulk surimi and processed seafood products that contain surimi as an ingredient.

The petition submitted the National Fisheries Institute fully sets forth the reasons that specific ingredient labeling of the fish species in surimi is impractical. We believe that these reasons provide FDA with proper basis to authorize "and/or" ingredient labeling for surimi, as they agency already has done for fats and oils, leavening agents, yeast nutrients, dough conditioners, firming agents, wax and resin coatings on fresh produce, and nutritive sweeteners in soft drinks.

Due to harvest seasonality and quota limitations, producers are unable to adhere to a constant pattern of fish species in making surimi. Surimi from different species and seasons has different functionality and producers are required to adjust overall formulations to maintain consistent quality for consumers.

In light of these factors, current requirements for specific ingredient labeling of the fish species in surimi and products containing surimi places unwarranted production, logistical and financial burdens on producers of both bulk surimi and surimi containing processed seafoods by forcing them to maintain and coordinate several inventories of fish specific surimi and contingent labels specific to the fish used.

We are concerned that the text of the proposed rule uses the term "fish protein ingredient" but uses "fish protein" to show how and ingredients declaration for surimi might read. We believe that the term "fish protein" is inappropriate and confusing for consumers as they may interpret this as a denatured fish concentrate such as used in fish emulsion fertilizer. As the provision maybe be read to mandate the use of the term "fish protein" as the labeling designation for surimi; when in fact, the term was used only as an

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example, we recommend that it be clarified. We do not believe that NFI' petition suggested this term and as it is the not most accurate or appropriate labeling designation.

Avri Companies, Inc. urges FDA in promulgating the final rule to clarify that "fish protein" was offered only as an example, and that another term(s) that accurately, simply and directly identifies surimi may be used. To reinforce this clarification, it is recommended that the FDA revise the text of the final regulation by replacing "fish protein ingredients" with "fish ingredients" each time that it appears. We believe that this will provide the surimi industry with the appropriate term.

We request that the FDA authorize the "and/or" labeling of surimi as soon as possible. It is also requested that the FDA, pending the completion of the rule making, issue a letter similar to that which was sent to the Soft Drink Industry concerning "and/or" ingredient labeling of nutritive sweeteners indicating that the agency will exercise enforcement discretion in immediately permitting "and/or" labeling of surimi under the proposed rule. Absent such immediate relief, the evident and unwarranted burdens that prompted the FDA's proposed rule will continue to be imposed on the industry and consumers unnecessarily.

We appreciate this opportunity to comment on the proposed rule and trust that the agency will seriously consider our recommendations for regulating in that area both immediately and ultimately under a final rule.
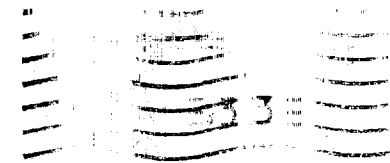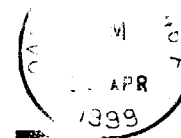
Respectfully submitted,

Carl H. Arvold
President
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AVRON
RESOURCES

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